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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:

PIGEONLY INC. d/b/a FOTOPIGEON,

Debtor.

Case No. 24-10355-nmc

Chapter 11

ITRIA VENTURES LLC, a Delaware
Limited Liability Company,

Plaintiff,

v.

FREDERICK JAMEL HUTSON, *et al.*,

Defendants.

Adv. Proc. No. 24-01122-nmc

**AMENDED
DECLARATION OF HARRISON
S. SMALBACH IN SUPPORT OF
PLAINTIFF'S MOTION FOR
REMAND**

**Hearing Date: November 26, 2024
Hearing Time: 9:30 a.m.**

I, Harrison S. Smalbach, hereby declare and state as follows:

1. I am Senior Counsel for the Plaintiff in this adversary proceeding, Itria Ventures LLC ("**Itria**"). I am over eighteen years old and am competent to testify to the facts and matters

1 set forth in this declaration. All facts and matters set forth herein are based upon my personal
2 knowledge or my review of records maintained in the ordinary course of business. If called as a
3 witness, I would testify consistently with the facts and matters set forth herein.

4 2. This declaration is being submitted in support of Itria's Motion for Remand filed in
5 this adversary proceeding.

6 3. Itria and Pigeonly, Inc. (the "**Debtor**") are parties to a Receivables Sale Agreement
7 dated April 28, 2022 (the "**RSA**"). A true and complete copy of the RSA is attached hereto as
8 **Exhibit 1**.

9 4. Under the terms of the RSA, Itria (defined in the RSA as the "Purchaser") agreed to
10 purchase, and the Debtor (defined in the RSA as the "Merchant") agreed to sell, "Receivables"
11 (defined in Section 2(c) of the RSA to include all funds that the Debtor received from its customers).
12 RSA at p. 1 and § 2.

13 5. In particular, Itria advanced \$73,000.00 to the Debtor to purchase \$93,750.00 of
14 Receivables, and the Debtor agreed to remit to Itria an agreed-upon percentage of its Receivables
15 collections in weekly installments. RSA at p. 1 and §§ 2 and 4.


16 6. The Defendants in this adversary proceeding, Frederick Jamel Hutson and Alfonzo
17 Brooks (collectively, the "**Defendants**"), guaranteed the complete and timely performance of the
18 Debtor's obligations under the RSA. RSA at p. 14.

19 7. On September 6, 2024, Itria filed an action against the Defendants in the District
20 Court of Clark County, Nevada (the "**State Court Action**"). A true and complete copy of the
21 Complaint from the State Court Action, styled *Itria Ventures LLC v. Frederick Jamel Hutson, et*
22 *al.*, Case No. A-24-901292-C, is attached hereto as **Exhibit 2**.

23 8. As of the date of the filing of the State Court Action, the amount owed by the
24 Defendants to Itria was less than \$75,000.

25 **I declare under penalty of perjury that the foregoing is true and correct.**

26 Executed on October 25, 2024

27 
28 Harrison S. Smalbach